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ABSTRACT

This guide to the rights of international students explains racial profiling and hate crimes. Since the terrorist attacks of September 11, 2001, many immigrants and international students have experienced heightened scrutiny and outright discrimination. Racial profiling refers to the reliance by law enforcement officers on a person's ethnicity, national origin, or race rather than behavior to identify him or her as having been engaged in illegal activity. A hate crime is any criminal act against a person or property in which the perpetrator chooses the victim based on his or her actual or perceived race, national origin, ethnicity, sexual orientation, disability, or gender. Noncriminal, but harmful, behaviors may be classified as hate incidents. There is federal protection against racial profiling and hate crimes, and Title VI of the Civil Rights Act of 1964 also protects college students against discrimination. The guide explains what a student should do if he or she has been the victim of racial profiling or a hate crime. It provides contact information for government agencies and organizations that can help, and it emphasizes that the student need not be a citizen to report a crime. (SLD)

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The Civil Rights Project

Spring 2003

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The Civil Rights Project

HARVARD UNIVERSITY

Know Your Rights on Campus: A Guide on Racial Profiling, and Hate Crime for International Students in the United States

The Civil Rights Project at Harvard University

Spring 2003

Introduction

The devastating terrorist attacks of September 11, 2001 have radically transformed the rights and responsibilities of immigrants visiting, studying and living in the United States. Immigrants—particularly those from certain Middle Eastern, Arab, and South Asian countries—now face heightened scrutiny and are subject to intensified immigration regulations. Since the September 11 tragedies, members of the Middle Eastern, Arab, and South Asian communities in the United States have also experienced verbal threats, physical violence, racial profiling regardless of citizenship status and the discriminatory use of classified and secret evidence in immigration proceedings targeting Middle Eastern, Arab, and South Asian persons.

Middle Eastern, Arab, and South Asian college and university **students** also have been affected by the post-9/11 tightening of immigration restrictions—as well as by the post-9/11 anti-terrorist backlash. Middle Eastern, Arab, and South Asian students on college campuses have experienced widespread harassment in the aftermath of the 9/11 attacks. They have received threatening phone messages, e-mails, racial epithets, and even death threats. Some students have even left the United States and returned home, fearing for their physical safety. Investigators from both the Federal Bureau of Investigation and the Department of Homeland Security (which has taken over the duties of the Immigration and Naturalization Service (INS)) also have contacted administrators on hundreds of college campuses to collect information about students from particular Middle Eastern, Arab, and South Asian countries.

The war against Iraq has fueled another backlash in this country against Middle Eastern, Arab, and South Asians in the United States. Racial harassment and hate crimes against people of Middle Eastern, Arab, and South Asian descent

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is on the increase again and the need to safeguard the civil rights and civil liberties of these groups is both vital and urgent.

What Protections Do I Have if I Face Harassment on Campus?

Since the terrorist attacks of September 11th, 2001, and in the time leading up to the current war on Iraq, many Middle Eastern, Arab, and South Asian students have encountered unprecedented racial hostility and violence. Such threats are particularly challenging to international students because international students lack an immediate network of family and friends in the United States and often face such harassment in tandem with adjusting to American academics and culture.

What are Racial Profiling and Hate Crimes?

Racial profiling refers to reliance by law enforcement officers on a person's ethnicity, national origin, or race, rather than on his/her behavior or other information, to identify him/her as being or having been engaged in illegal activity.[1] Racial profiling can result in a person's being followed, detained, harassed, arrested or abused because of his/her race, ethnicity, national origin, and/or religious affiliation.

A **hate crime**, also known as a bias-motivated crime, is any criminal act against a person or property, where the perpetrator chooses the victim based on his or her actual or perceived race, religion, national origin, ethnicity, sexual orientation, disability, or gender. Hate crimes can range from vandalism to violent physical assaults. Some states do not have laws treating these crimes differently from the underlying criminal act. Most states have laws that require harsher criminal punishments for those who commit bias-motivated acts.[2] As people have started to recognize the harsh emotional and psychological impact that hate crimes have on our nation's neighborhoods and communities, more and more states have moved to prosecute these crimes aggressively. Non-criminal, but harmful behavior that is motivated by a person's real or perceived race, religion, national origin, ethnicity, sexual orientation, disability, or gender, can be classified as "hate incidents," which may include non-threatening name-calling, use of racial slurs, or the dissemination of racist leaflets.

Since the events of September 11th, 2001, Middle Eastern, Arab, and South Asian university students have been victims of widespread racial profiling and hate crime across the nation. These university students have been viewed suspiciously because of their appearance or religious and cultural affiliations. Such racial profiling and hate crimes not only harm individual students, causing problems ranging from academic difficulties to physical and psychological trauma, but also affect everyone in the targeted group. Racial profiling and hate crimes particularly impact international students, who are far away from the familiar support networks of friends and family in their home countries. Indeed,

since 9/11 many international students from Middle Eastern, Arab, and South Asian countries have returned home because of the intolerable levels of racial hostility that they experienced on campus and in the community. Racial hatred also undermines the mission of American universities, which is to promote diversity, tolerance, understanding, and equal educational opportunity.

How Do I Identify Racial Profiling?

- Do law enforcement practices or university policies occur wholly or in part because of the racial, ethnic, national origin and/or religious backgrounds of targeted students?

- Is there a pattern of victims from the same race, ethnicity, national origin and/or religion?

- Are law enforcement officers or university administrators investigating potential misconduct due to the actual or perceived race, ethnicity, national origin and/or religious affiliation of the individual rather than because of the behavior of the individual or other credible information?

What Do Racial Profiling and Hate Crimes Look Like?

Examples of Racial Profiling:

- Investigators questioned Shira, a graduate student on a student visa from Lebanon, about her views on Osama bin Laden, the names of her favorite restaurants, and about her plans after graduation.[3] News reports indicate that federal investigators have contacted administrators on more than 200 college campuses to collect information about students from Middle Eastern countries.

- Mohammed, an Iranian-born U.S. citizen, is on his way home for vacation. When the plane is about to take off, an airline employee approaches him and tells him to grab his belongings and get off the plane. He is told that the pilot does not feel comfortable flying with him on board because of the way he looks.[4]

- Omeed, a student from Pakistan, is walking home to his university dormitory from the university library. Campus security stops him and asks to see his student identification. Omeed left his student ID in his apartment. Although he is wearing a backpack, carrying books, and coming from the

library, campus security continues to question Omeed for another 30 minutes before dismissing him with a warning not to be on campus again without a valid student ID. Several groups of white students walked by before, during and after the police questioned Omeed and none of the students were asked to show their student IDs.

Examples of Hate Crimes:

- The Islamic-American Students Association office is vandalized and broken into several times over the school year. Racist graffiti is always sprayed all over the office.

- An Iraqi student is slapped and kicked on campus by a student he had never met before after a party. During the assault, the attacker called him a supporter of Saddam Hussein and that he should go back to his country so that the United States could teach him a lesson.

You Have The Right Not To Be Subject To Racial Profiling or Hate Crimes!

Federal Protection Against Racial Harassment and Hate Crimes

In addition to the federal criminal laws against hate crimes, Title VI of the Civil Rights Act of 1964 also protects college students against discrimination. It states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

What Protection Does Title VI Offer College Students?

- In colleges and universities that receive federal funding (money from the U.S. Government), Title VI bans discrimination on the basis of race, color, or national origin.

- **As a student of a college or university that receives federal funding, you have a right to study in an educational environment that is free from racial harassment or hostility.**

- Title VI provides enforcement against racially hostile environments, which the Department of Education defines as an atmosphere "created by oral, written, graphic or physical conduct related to an individual's race, color, or national origin that is sufficiently severe, persistent or pervasive so as to

interfere with or limit the ability of an individual to participate in or benefit from the recipient's programs or activities."

- Title VI also bans racial harassment such as racially motivated physical attacks, racial epithets scrawled on school walls, and organized hate activity directed at students.

What and Whom Does Title VI Cover?

- Because most public and private colleges and universities receive some federal financial assistance, Title VI applies to most colleges. If your college receives federal financial assistance (which includes loan or grant money for students), all of your college's programs are subject to the Title VI standards.

- Title VI covers all of a college's on-campus and off-campus programs, including academic programs, extracurriculars, and athletics.

- Programs covered by Title VI may include, but are not limited to, admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignments, grading, vocational education, recreation, physical education, athletics, housing, and employment.

- Title VI protects parents, students, and some employees from discrimination.

When Has My University Violated Title VI?

- <u>If your college or university causes or encourages racially hostile behavior, it has violated Title VI. If you complain about racially hostile behavior to your university and it fails to take action, it has violated Title VI</u>. Once the university knows that racially hostile behavior is occurring, it has a legal responsibility to take action against it.

- <u>Racially hostile environments can be created by the actions of other students; professors; college employees; or college administrators</u>. For a Title VI violation to exist, the person who commits racially hostile actions or behavior does not have to be an employee of the university. In addition, it does not matter if you are not the specific target of the racially hostile behavior—a racially hostile environment at a university that receives money from the government is against the law.

<u>Examples of a Racially Hostile Environment</u>:

- Several students hang up posters around campus saying "All Muslims are Murderers" and send anti-Muslim e-mail messages. The university administration knows about the posters and e-mail messages, but leaves the posters up and takes no action.

- Muslim female students wearing hijab are always harassed and intimidated by other students as they walk home from their weekly meeting of the campus Islamic Students Group and university administrators have been notified but have taken no action to stop the harassment.

What To Do if You Experience Racial Profiling or a Hate Crime

If You Experience Racial Profiling:

- Document the incident (time, place, location, witnesses). Discuss the incident with your family, friends, or other trusted individuals so that you remember the specific details of the incident. Save any evidence.

- File a complaint. It is important that college and university authorities and the broader campus community are aware that racial profiling is occurring.

    - On Your Campus, Contact:

        - Campus security or your local police department.
        - Dean of Students, Student Life Office, International Student Organization or other university administrators.
        - Cultural, Religious, or Student Organizations

    - Outside of Your Campus, Contact:

        - **American Civil Liberties Union**: 125 Broad Street, New York, N.Y. 10004, (212) 549-2585, http:// www.aclu.org. The ACLU also has branch offices in all fifty states. Call **ACLU's Racial Profiling Hotline**, 1-877-6-PROFILE to report that you have been racially profiled.
        - **American-Arab Anti-Discrimination Committee (ADC)**: 4201 Connecticut Avenue, N.W., Washington, D.C. 20008, (202) 244-2990, e-mail: adc@adc.org, http://www.adc.org
        - **The Council on American Islamic Relations (CAIR)**: 453 New Jersey Avenue, S.E., Washington, D.C. 20003,

(202) 488-8787, e-mail: cair@cair-net.org, http://www.cair-net.org

- **National Lawyers Guild**, 143 Madison Avenue, New York, N.Y. 10016, (212) 679-5100, e-mail: nlgno@nlg.org, http://www.nlg.org.

If You Are the Victim of a Hate Crime:

- IMMEDIATELY, call your local police or campus police. **You do not need to be a citizen to report a crime.** You can also report the incident to your local FBI office. In many areas, "911" is the best number to call in an emergency. Make sure to include as many details as possible. Ask that they treat the incident as a hate crime.

- Document the incident (time, place, location, witnesses). Discuss the incident with your family, friends, or other trusted individuals so that you remember the specific details of the incident. Save any evidence and take photographs.

- Tell a college official -- any college official (professors, resident assistants in your dorms, counselors, administrators). Every federally funded college must have a designated person to ensure compliance with certain civil rights statutes, a "Civil Rights Coordinator." This person focuses on discrimination and harassment.

- Contact cultural, religious, or student organizations for support. Consider issuing a statement from student or community leaders, meeting with campus officials and alumni, holding a news conference, or organize a protest.

- Contact an advocacy or victim assistance organization. These organizations provide support, advocacy, and referral services for victims of harassment, violence and hate crimes. In addition, these advocacy organizations track hate crime data and work in collaboration with schools, communities and law enforcement agencies in violence and hate prevention training.

- Report the hate crime, as appropriate, to the National Asian Pacific American Legal Consortium at http://www.napalc.org/programs/antiviolence/resources/12-Incident%20Reporting%20Form.pdf, The Council on American Islamic Relations (CAIR) at http://www.cair-net.org/ireport/, Stop the Hate at http://www.stopthehate.org/get_help/report_a_crime.php, or Hate-Crime Network at http://hate-crime.website-works.com/. These are *not*

official crime reports but your reports help these organizations draw attention to the problem of hate crimes and assist them in their work to prevent hate incidents.

- National Organizations Concerned about Hate Crimes:
    - **National Asian Pacific American Legal Consortium (NAPALC):** (202) 296-2300, http://www.napalc.org/programs/antiviolence/resources/index.htm
    - **American-Arab Anti-Discrimination Committee (ADC)**: (202) 244-2990, http://www.adc.org
    - **The Council on American Islamic Relations (CAIR)**: (202) 488-8787, http://www.cair-net.org
    - **Anti-Defamation League:** regional office contact information can be found at http://www.adl.org/main_regional.asp
    - **U.S. Department of Justice, Community Relations Services**: national and regional office contact information can be found at http://www.usdoj.gov/crs/crs_off.htm

How Can You Enforce Your Title VI Rights?

- The Department of Education's Office of Civil Rights enforces Title VI by investigating and resolving complaints about Title VI violations by educational institutions that receive federal funding.

- If you think that you have been discriminated against by your college or university, before filing a complaint with the Department of Education you may want to determine what your university's "grievance process" is and use that process to resolve your complaint.
    - You are not required by law to use your university's grievance process before filing a complaint with OCR.
    - If you choose to use your university's institutional grievance process and also choose to file the complaint with OCR, the complaint must be filed with OCR *within 60 days* after the last act of the institutional grievance process.

- If you think you have been discriminated against by your college or university, you may file a formal complaint against the institution, as long as it receives Federal funds (almost all universities receive federal funds), with the U.S. Department of Education's Office for Civil Rights, (202) 205-5413, 1-800-421-3481. You can file a complaint on-line at http://www.ed.gov/offices/OCR/complaintprocess.html or through one of

the regional enforcement offices. You can locate your regional OCR office at: http://bcolo1.ed.gov/CFAPPS/OCR/contactus.cfm

- The OCR process can be very lengthy – the entire process will take at least 6 months to one year to initiate and develop. OCR is not your best resource for getting an immediate response – turn to local civil rights and community-based organizations for more rapid assistance.

- When filing an OCR complaint, *you may complain on behalf of someone else*—the discrimination need not have happened to you.

- You must file the complaint *within 180 calendar days* of the discrimination.

- **You do not have to be a U.S. citizen to file a complaint under Title VI.**

- You need to file a *formal letter of complaint*. The letter should explain:

  - Who was discriminated against; in what way; by whom; when the discrimination took place; who was harmed; who can be contacted for further information; your name, address and telephone number and the name of your college or university; and as much background information as possible about the discriminatory incidents.

  - State whether you think a whole group has been discriminated against (for example, if all students of a particular national origin group are being targeted)

  - If you are filing a complaint, OCR will keep your identity confidential unless there is some legal requirement for disclosure.

- If an investigation indicates that your university has violated Title VI, OCR will try to work with your university to see if your university will voluntarily change its behavior. Most cases are resolved voluntarily between the complaining party and the university. If your university is uncooperative, in extremely limited circumstances OCR will initiate enforcement action against the university.

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[1] *See* Deborah Ramirez et al., *A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned*, Washington, DC: U.S. Dep't of Justice, 2000, at 3.

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[2] Each state's law may differ and may not include protection for every group mentioned. The Anti-Defamation League has created an interactive map of the U.S. to determine what constitutes a protected category in your state. Visit http://www.adl.org/learn/hate_crimes_laws/map_frameset.html for an outline of each state's statutory provisions.

[3] This example is based on reports by international students on college campuses. Jacques Steinberg, *In Sweeping Campus Canvasses, U.S. Checks on Mideast Students*, The New York Times, Nov. 12, 2001, *available at* http://www.nytimes.com/2001/11/12/national/12STUD.html.

[4] This example is based on the experiences reported by Vahid Zohrehvandi. Airlines, Passengers Confront Racial Profiling (CNN, Oct. 3, 2001), *available at* http://www.cnn.com/2001/TRAVEL/NEWS/10/03/rec.airlines.profiling/.

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